

From: <NBurris@aol.com>
To: A4.A4(fccinfo)
Date: 4/16/96 2:29am
Subject: Comments re: Proposed rules for PCS Competitive bidding in F-band auction

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PLEASE FORWARD TO:

Office of the Secretary
Mr. William F. Caton
Acting Secretary

COMMUNICATIONS COMMISSION
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SECRETARY

Dear Mr. Caton:

I represent Wireless 2000, Inc., a very small, women-owned start-up company which is presently bidding in the C-band auction and looks forward to the opportunity to bid in the upcoming F-band auction. With this auction still in full swing, we have been challenged to assemble a meaningful response in the time provided. I realize that this response may not be considered a formal set of comments on your proposed rules, but wanted to extend my comments anyway.

I will limit my comments to those areas where we have specific experience and opinions, in large part developed through our involvement with the PCS auction process to date.

On the issue of race- and gender-based preferences, I will offer the anecdotal experiences of our firm. We have been seriously challenged during the past two years with multiple delays of the C-band auction, the inability to raise funds through traditional sources, and the constantly changing rules of the auction. **MULTIPLE DELAYS:** Each delay of the auction cost us money, time and energy. Many of our potential competitors in the auction never made it to December, 1995, nearly 1-1/2 years after the anticipated beginning of the auction! This has affected us more than any other factor. **FUND RAISING:**

Traditional funding sources, that would allow us to maintain our independence and company control, were unavailable to a start-up company that intends to become operational upon success at the C-band auction. Venture capital funds threatened to disqualify us from the auction based on these sources' request for significant changes to our attributable control group. **RULE CHANGES:**

Complicated, frequent rule changes made it difficult to attract investors in the early stages of the auction, since the "rules of the game" changed markedly, in some cases from day to day. **OUR RECOMMENDATION:** Make a decision and stick with it! If we are not to have race- and gender-based preferences, decide immediately, and let us all get on with things. While we have experienced difficulty in securing much needed funds, the rules associated with the smallest business entities in the auction have helped us to increase our chances of attaining our goals.

In terms of experience at the C-band auction, we recommend that you consider the numbers of bidders that initially qualified for the auction (256 bidders) and the percent that were minority owned (46 companies), women-owned (34 companies), and minority-women-owned with the same data relating to companies that are ultimately successful at the auction -- winning licenses and being able to pay for them. The ability to enter the race is a noble start...the ability to really compete is the more telling statistic. We suspect that, when the dust settles, you will find that the vast majority of winners in the auction are a fairly homogeneous group of white-male controlled companies.

Based on the prices of this auction versus the A- and B-band auction, the availability of capital to fund the auction and the far more significant next steps will be a major hurdle for those companies which you acknowledge to be challenged in the area of raising capital.

As stated earlier, the control group equity structure creates serious challenges for us. However, those that truly comply with these restrictions (de facto company control as well as documented control) will offer you the true diversification of the industry that you say you strive for. If you decide to maintain these restrictions, please ensure that you are truly testing your rules on those who compete in the auction. Based, again, on our experience in the C-band auction, "creative accounting" of ownership offers the opportunity for gross manipulation of, if not blatant disregard for, these restrictions.

The affiliation rules, again, on the surface suggest a desire to truly expand the ownership of telecommunications companies to non-traditional groups.

Far more significant in our view than minority ownership exceptions, are the rules associated with size of the companies involved. The current designations that you set for small businesses are laughable. The limits that you

set for companies that were allowed to compete in the C-band auction excluded only the VERY large companies in this nation. Clearly, companies that were capable of up-front payments approaching \$100,000,000 are NOT small businesses...nor are those that can amass bids in excess of \$1,000,000,000.

If you are serious about getting real small businesses into this marketplace, these limits must be drastically reduced...and CERTAINLY not increased...in the upcoming F-band auction. Consideration for the values of licenses obtained in the C-band auction should not be a problem, since truly small businesses will have greatly increased the indebtedness of their company in the near term, simply in order to secure these licenses. Those companies who are suddenly reflecting assets well in excess of your limits were clearly not small companies to start with, or they could not have secured the funds needed to acquire licenses that would cause them to exceed these limits. If this precludes them from the next round of auctions as small companies, then you have only brought to light facts that should have been revealed prior to the C-band auction.

The installment payment plans and bidding credits made available on a two-tiered basis in the C-band auction remain critical in the next auction...made even more critical for small companies that desire to compete in both auctions, based on the highly inflated prices of the C-band auction.

Your presumption that the smaller licenses in the D,E and F band auctions will have lower values certainly has not been borne out in the C-band auction, when you compare "per-POP" prices for the licenses auctioned off in the A and B band auction to the current prices in the C-band. We struggle to understand why this assumption is being made and consideration being given to reducing these critical benefits for truly small businesses.

We approve of the simultaneous auctioning of the D,E and F bands and welcome the idea of extending small business credit provisions to the D and E bands as well. These credits have proven critical to us in the C-band auction and will clearly remain so in any subsequent auction. Truly small companies have been significantly challenged in the C-band auction, when faced with the seemingly endless resources of companies such as Omnipoint (which was awarded a pioneer preference license well before the C band auction), DCR, NextWave and similar companies. Many have dropped out long before the auction draws to a close. Those who have the tenacity to attempt to secure lesser licenses in the D,E and F-bands should not be forced to compete at the same level as the huge companies that currently hold the telecommunications market, if your goal is truly that of diversification of the industry and inclusion of smaller companies and companies with non-traditional ownership. Allowing us to bid on any of the three bands and exercise our small business credit provisions increases our odds of success.

The suggestion that restrictions relating to holding of licenses that are awarded in the F-band auction might be eased would be welcomed, as well. The inability to change ownership has been another challenge that has affected our ability to attract significant investors during our C-band auction efforts. Many large investors wish to see a plausible exit strategy for them in a shorter time frame than five years. Having this option would provide us with the ability to offer such investors a possible exit strategy that could still yield desirable profit levels for these investors and allow us to adequately fund our growth.

On the issue of ownership disclosure we applaud your desire to simplify this process. It seems that the key issue is that of hidden ownership of a company by entities within the telecommunications industry. By limiting disclosure requirements to this issue, the information that we must provide is less onerous and yet addresses your stated concerns. Audited financial statements fall in the same category. Truly small businesses may not have audited financial statements. However, those companies that seem to stretch the limits of "small businesses" clearly should be able to provide such statements. A simple process that allows for the CFO of a company to declare that such statements are not used in the regular course of the company's business should address your needs.

There are a number of areas that I have not addressed in this response, either because we have no experience in that area or because the proposed suggestions that you have made seem acceptable to us. Thank you for the opportunity to offer input in this process.

Sincerely,
Nancy A. Burris
VP-Business Operations
Wireless 2000, Inc.